

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

CLIFFORD DEVINE,

Plaintiff,

v.

UNITED STATES,

Defendant.

*
*
*
*
*
*
*
*
*

CV 118-195

O R D E R

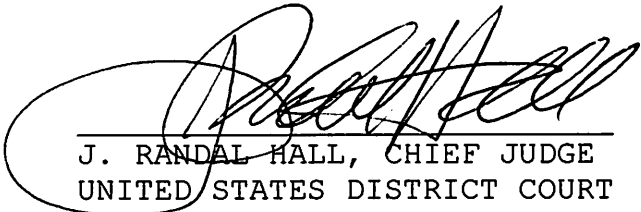
Before the Court are Defendant's Amended Motion to Dismiss (Doc. 15) and Plaintiff's Second Motion for Leave to Amend (Doc. 28). The Court first addresses Plaintiff's request to amend his complaint. On October 8, 2019, the Court denied Plaintiff's first motion for leave to amend but clarified that the denial did not foreclose Plaintiff's ability to file a proper motion for leave to amend. (Order, Doc. 27, at 4.) Plaintiff filed the present motion for leave to amend on October 17, 2019. (Second Mot. to Am., Doc. 28.)

Unless filed within the window allowing a party to amend as a matter of course, "a party may amend its pleading only with the opposing party's written consent or the court's leave." FED. R. Civ. P. 15(a)(1)-(2). Defendant does not object to Plaintiff's Second Motion for Leave to Amend. (Resp. to Second Mot. to Am., Doc. 29.) Therefore, the Court **GRANTS** Plaintiff's Second Motion

for Leave to Amend (Doc. 28). Plaintiff **SHALL** file his Amended Complaint as a stand-alone entry on the docket within **THREE (3) DAYS** from the date of this Order.

The Court now turns to Defendant's Amended Motion to Dismiss, which challenges Plaintiff's original complaint (Doc. 1). "It is well-established that an amended complaint super[s]edes an original complaint and renders the original complaint without legal effect." Renal Treatment Ctrs.-Mid-Atl., Inc. v. Franklin Chevrolet-Cadillac-Pontiac-GMC, No. 608CV087, 2009 WL 995564, at *1 (S.D. Ga. Apr. 13, 2009) (quoting In re Wireless Tel. Fed. Cost Recovery Fees Litig., 396 F.3d 922, 928 (8th Cir. 2005)) (citing Fritz v. Standard Sec. Life Ins. Co. of N.Y., 676 F.2d 1356, 1358 (11th Cir. 1982)); accord Malowney v. Fed. Collection Deposit Grp., 193 F.3d 1342, 1345 n.1 (11th Cir. 1999) ("An amended complaint supersedes an original complaint."). Here, Plaintiff's Amended Complaint supersedes his original complaint. Accordingly, **IT IS HEREBY ORDERED** that Defendant's Amended Motion to Dismiss (Doc. 15) is **DENIED AS MOOT**. Having resolved Defendant's Amended Motion to Dismiss, the Court **DIRECTS** the Clerk to lift the stay. (See Order, Doc. 23.)

ORDER ENTERED at Augusta, Georgia, this 7th day of January, 2020.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA